

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

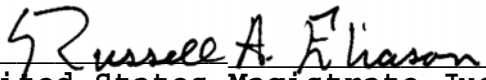
CROWN CORK & SEAL COMPANY, INC.)	
and CLARK EQUIPMENT COMPANY,)	
)	
Plaintiffs,)	
)	
v.)	1:99CV00869
)	
CBS CORPORATION, as successor in)	
interest to WESTINGHOUSE ELECTRIC)	
CORPORATION, et al.,)	
)	
Defendants.)	

RECOMMENDATION NO. 33 OF MAGISTRATE JUDGE ELIASON

Plaintiffs have filed a motion to dismiss and bar all further claims, cross-claims and third-party claims against settling defendant C&M Oil Distributors, Inc. (C&M). (Docket No. 543) No party has filed an opposition to plaintiffs' motion and the time for doing so has run. The basis for this motion is the same as was dealt with in Recommendation No. 3. This Recommendation was adopted by the Court and judgment was entered on January 9, 2001. (Docket Nos. 219 & 220) For the same reasons as were set out in Recommendation No. 3, it is recommended that plaintiffs' motion to dismiss as to this defendant be granted.

IT IS THEREFORE RECOMMENDED that plaintiffs' motion to dismiss defendant C&M Oil Distributors, Inc. as a defendant from this lawsuit with prejudice, and further, that all cross-claims or third-party claims arising out of plaintiffs' claims for recovery of their RI/FS costs, RD/RA costs, or any other response costs against defendant C&M (docket no. 543) be granted, and that the Court, in fact, dismiss any cross-claim or third-party claim by any

party against defendant C&M with prejudice as a result of its settlement of plaintiffs' claims, and further, that the Court accept the Uniform Comparative Fault Act proportionate share rule for this case so that plaintiffs' contribution claims against the non-settling defendants will be reduced by the fair share of defendant C&M and further, that a final, appealable judgment be entered concerning the dismissal of C&M Oil Distributors, Inc. from this action, inasmuch as there is no just reason to delay the entry of a final, appealable judgment.


United States Magistrate Judge

July 13, 2005